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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,086	07/15/2003	Yasuo Hirata	P/16-337	9265

2352 7590 03/19/2007  
OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER
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SMITH, PHILIP ROBERT

ART UNIT	PAPER NUMBER
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3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/621,086

Applicant(s)

HIRATA, YASUO

Examiner

Philip R. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 17-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**Claim Rejections - 35 U.S.C. 112, Paragraph Two**

[01] Rejections are withdrawn in view of the amendment of 1/2/07.

**Claim Rejections - 35 USC § 102**

[02] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[03] Claims 1-3,8,10 are rejected under 35 U.S.C. 102(b) as being anticipated by Flaherty (6,726,677).

[04] With regard to claim 1: Flaherty discloses:

[04a] an endoscope ("probe 84," 8/45) having an elongated insertion unit whose bending section adjoins a distal section thereof; and

[04b] an insertion unit guide member including a plurality of tubular members (comprising "catheter 80" and "sheath 86," 8/41-50), each tubular member of the plurality of tubular members having a guide channel that has a predetermined diameter permitting another tubular member of said plurality of tubular members and the insertion unit to smoothly pass through the guide channel (see Figure 3).

[04c] Each of the tubular member inherently has a predetermined degree of flexibility and a predetermined length. The "catheter 80" has a direction changing unit (such as "curved deflecting portion 108," 9/9) operative to change an advancing direction in which the insertion unit is advanced

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through the guide channel, wherein the insertion unit guide member is adapted to be passed through or placed in a pipe.

- [05] Claims 2-3,8,10 are rejected for the reasons set forth in the Office action of 10/2/06.

**Claim Rejections - 35 USC § 103**

- [06] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [07] Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Matsuno (6,605,033), for the reasons set forth in the Office action of 10/2/06.
- [08] Claims 6,7,9,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Matsuno and in further view of Krupa (2003/0216616), for the reasons set forth in the Office action of 10/2/06.
- [09] Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Hasegawa (2002/0032365), for the reasons set forth in the Office action of 10/2/06.

**Allowable Subject Matter**

- [10] Claims 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Response to Arguments**

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[11] Applicant's arguments filed 1/2/07 have been fully considered.

[12] Firstly, Applicant contends that that "Flaherty does not disclose or suggest an endoscope or an endoscope system." It is maintained that Flaherty does disclose an endoscope as characterized by claim 1, i.e. "an elongated insertion unit whose bending section adjoins a distal section thereof."

[13] Secondly, Applicant contends that "Flaherty does not disclose or suggest a tubular member with a guide channel that permits a second tubular member to pass through the guide channel and also permits the insertion unit to pass through the guide channel." As noted above, <sup>Flaherty</sup> discloses just such an arrangement.

**Conclusion**

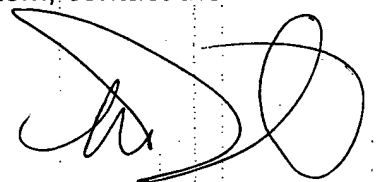
[14] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

[15] A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

- [16] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [17] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [18] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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